

November 21, 2024

**The Municipality of Chatham-Kent  
Code of Conduct for Members of Council**

**1. Preamble**

- 1.1 The *Municipal Act, 2001*, S.O. 2001, c. 25, at section 223.2, requires a municipality to establish a code of conduct for members of the Council of the municipality and of local boards of the municipality. Further, section 223.3 authorizes a municipality to appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the application of the code of conduct.
- 1.2 Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of government officials. In particular, the public is entitled to expect the highest standards of conduct from those elected to Municipal government. In turn, adherence to these standards will protect and maintain the Municipality of Chatham-Kent’s reputation and integrity.
- 1.3 To these ends, the Municipality of Chatham-Kent adopted an original Code of Conduct for Members of Council. Due to changes in provincial legislation, changes in expectations for Council members, changes in technology and the methods by which members of Council are expected to fulfil their duties, and an increased emphasis on transparency, the Municipality has now revised and updated the original Code of Conduct.

**2. Definitions**

- 2.1 The definitions in this section shall apply throughout this Code of Conduct. Definitions shall apply regardless of whether a word or term is capitalized.
  - (a) “Child”, “parent” and “spouse” shall have the same meanings as in the Municipal Conflict of Interest Act.
  - (b) “Member” shall mean a current member of Council and a former member of Council if the complaint is filed during their term of Council. Member shall also mean any member of local boards, committees of council, commissions and boards, as described in Section4 below.
  - (c) “Confidential Information” shall mean any of the following:

- i. Information in the possession of the Municipality, or received in confidence by the Municipality, which the Municipality is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, *Personal Health Information Protection Act*, or other legislation;
- ii. Any discussion or information shared with Council in an in camera (closed) meeting of Council, unless Council has voted in a public and open meeting of Council to allow public disclosure of the discussion or information from the in camera (closed) meeting; or
- iii. Any information which staff have provided to a member and clearly indicated that the information is confidential, unless (i) Council has voted in a public and open meeting to allow public disclosure of the information or (ii) the staff member who provided the information to Council has subsequently indicated that the information is no longer confidential.

It also means any information that is of a personal nature to Municipal employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Municipality could give the person to whom it is disclosed an advantage. In addition to the above, confidential information includes, but is not limited to the following information:

- i. Disclosed or discussed at a Closed Session meeting of Council;
- ii. That is circulated to Members of Council and marked “Confidential”; and
- iii. That is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to the following types of information:
  - a. Personal matters about an identifiable individual(s);
  - b. Information about suppliers provided for evaluation which might be useful to other suppliers;
  - c. Matters relating to legal affairs of the Municipality; sources of complaints where the identity of the complainant is given in confidence; items under negotiations; and matters identified as solicitor-client privileged

(d) “Council Committee” means an Advisory, Reference, Standing or Special Committee of Council, established in the Procedural By law 108-2024, as amended from time to time

(e) “harassment” means harassing behaviour and conduct as indicated by the Municipality of Chatham-Kent Respect in the Workplace Policy, *the Ontario Human Rights Code and the Employee Code of Conduct*.

- (f) “official duties” means the public duties of a Member and includes functions performed by Members necessary to demonstrate responsible and accountable government with respect to matters within the Municipality’s or Local Board’s jurisdiction, and which are done for the purpose of providing good governance with respect to those matters.

### **3. Statutory Provisions Regulating Conduct**

3.1 This Code of Conduct operates with and as a supplement to the existing Municipal, Provincial and Federal statutes including, but not limited to,

- (a). *Municipal Act, 2001*
- (b). *Municipal Conflict of Interest Act*
- (c). *Municipal Elections Act*
- (d). *Municipal Freedom of Information and Protection of Privacy Act*
- (e). Ontario Human Rights Code
- (f). Municipality of Chatham-Kent By-laws
- (g). Chatham-Kent Employee Code of Conduct
- (h). Respect in the Workplace and Council-Staff Relations Policies and associated procedures and policies
- (i). Any and all other Municipal, Provincial and Federal statutes that may from time to time govern the conduct of members

### **4. Application**

4.1 This *Code of Conduct* applies to all elected members of the Council, including the Mayor.

4.2 This *Code of Conduct* also applies to all members of local boards, committees of council, commissions and boards, unless prohibited by statute or regulation. This *Code of Conduct* should be interpreted with modification where necessary to include local boards, committees of council, commissions and boards.

4.3 For clarity, this *Code of Conduct* does not apply to members of:

- (a). a school board;
- (b). conservation authority;
- (c). a society as defined in subsection 2 (1) of the Child, Youth and Family Services Act, 2017;
- (d). a board of health as defined in subsection 1 (1) of the Health Protection and Promotion Act;
- (e). a committee of management established under the Long-Term Care Homes Act, 2007;
- (f). a police services board established under the Police Services Act;
- (g). a board as defined in section 1 of the Public Libraries Act;
- (h). a corporation established in accordance with section 203; and
- (i). any other local board prescribed by statute or regulation.

## **5. Principles of General Application**

- 5.1 The principles of general application in this section shall be used to govern interpretation of the more specific rules and obligations outlined in this Code of Conduct.
- 5.2 These general principles shall also be used to determine issues not specifically addressed in this Code of Conduct.
- 5.3 This Code does not prohibit the activities in which Members normally engage on behalf of constituents in accordance with applicable laws.
- 5.4 The general principles are:
- (a). Members of Council shall uphold a high standard of ethical behaviour to ensure that their decision-making is impartial, transparent and free from undue influence;
  - (b). Members shall refrain from engaging in conduct that would bring the Municipality or Council into disrepute or compromise the integrity of the Municipality or Council.
  - (c). Members shall avoid conflicts, both apparent and real, and the improper use of the influence of their office. In the discharge of their Duties, Members shall not extend preferential treatment to Family Members, organizations or groups in which they or their Family Member have a Pecuniary Interest, which Pecuniary Interest is known to the Member.
  - (d). Members shall not engage in the management of a business carried on by a corporation nor profit directly or indirectly from a business, including but not limited to a corporation, that does business or has contracted with the Municipality of Chatham-Kent, or hold an office or directorship, unless holding the office or directorship is in a social club, religious organization, other charitable organization or corporations with shares directly or indirectly held by the Municipality of Chatham-Kent.
  - (e). Members shall perform their Duties and arrange their public affairs in a manner that promotes public confidence and respect and bears close public scrutiny, by refraining from participating in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual member of the public.

### Committees, Local Boards and Members of Committees/Local Boards.

- 5.5 Members of the public appointed to committees or Local Boards are appointed at the pleasure of Council. They do not hold office nor do they represent a constituency within the community nor do they represent Council, or the committee or the Local Board unless mandated to do so. Members of the public appointed to committees and Local Boards must respect both the word and spirit of this Code as it applies to them and also as it applies to Members

of Council.

5.6 Committees and Local Boards operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council.

5.7 No Committee member/Local Board member may act beyond the mandate of the committee/localboard granted by Council. They must not undertake site visits, direct discussions with residents, informal meetings or communications including emails except:

- (a). As granted the right to do so by Council;
- (b). Pursuant to the duties of a Member of Council; or
- (c). Otherwise, if required by law.

Commentary: The Integrity Commissioner will provide Commentary to clarify Code rules, from time to time, as required

## **6. Gifts and Benefits**

6.1 No member shall accept a fee, advance, gift, advantage, service, benefit or hospitality that is connected directly or indirectly with the performance of their duties of office, unless permitted by exceptions listed below in (a) or those which are disclosed and limited to the rules described below in (b). For these purposes, fee, advance, gift, advantage, service, benefit or hospitality to a member's spouse, child, or parent is deemed to be a gift to that member.

- (a). The following are recognized as exceptions and do not require disclosure to under this Code:
  - i. compensation authorized by Council or otherwise authorized by law;
  - ii. gifts or benefits of nominal value that are received as an incident of protocol or social obligation;
  - iii. a political contribution otherwise reported publicly by law, in the case of members running for office;
  - iv. food, lodging, transportation and entertainment provided by federal, provincial, regional or municipal governments or political subdivisions of them;
  - v. food, lodging, transportation and entertainment at a conference or seminar where the member is either speaking or attending in an official capacity;
  - vi. food, lodging, transportation or entertainment provided by a private individual, association, partnership, company or foreign government, on the condition that:
    - a. attendance serves a legitimate business purpose;
    - b. the person extending the invitation or a representative of the organization is in attendance;
    - c. the value is reasonable;
    - d. the invitations are infrequent; and
    - e. the private individual, association, partnership, company or foreign

government is not bidding on a tender, RFP, or obtaining other contractor any financial benefit or relationship with the Municipality, within a 12 month period before and after the food, lodging, transportation or entertainment is provided; and

- vii. communication provided to a member, including subscriptions to newspapers and periodicals.

6.2 An invitation to attend a function where the invitation is connected directly or indirectly with the performance of the Member's Duties (i.e., for which the public office holder has a ceremonial, presentational or representational official role) is not considered to be a gift. Attendance is the fulfillment of a Duty.

(a). Exceptions may include: a fee, advance, gift, advantage, service, benefit or hospitality that is connected directly or indirectly with the performance of their duties of office subject to the following rules, restrictions and public disclosure:

- i. where the total value of a fee, advance, gift, services or benefit exceeds \$100 per member in money and in kind donations;
- ii. members shall monthly provide the Integrity Commissioner with a list of any gifts, and other benefits obtained, where the fair market value exceeds \$100.00 per gift, sponsorship or donation. The member shall disclose an itemized list for each gift, and benefit received, along with the name of the giver and an estimated fair market value of the gift and benefits received. The member may choose to provide comment for any or each item on the list; and
- iii. annually the Municipal Clerk shall summarize the information received from each member and provide this information to Council in a public report.

6.3 Should the Integrity Commissioner determine that receipt was inappropriate, they may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, "request" or forfeit the gift or remit the value of any gift or benefit already consumed to the Municipality.

(a). This Code recognizes that as community leaders, Members may lend their support to and encourage, community donations to registered charitable and not-for-profit groups. Funds raised through fundraising efforts shall go directly to the groups or volunteers and chapters acting as local organizers of the group. This Code recognizes the important work of Members in supporting charitable causes and the need for transparency in Members' involvement. In this context, this Code sets the following guiding principles for Members:

- i. Members should not directly or indirectly manage or control any monies received relating to charitable organization's fundraising.
- ii. A Member or a third party acting on behalf of the Member shall neither solicit nor accept support in any form from an individual, group or

corporation with any pending litigation or application before Council (including but not limited to bids on contract tenders or Requests for Proposals).

- iii. With reference to Member-organized community events that are municipal-wide in scope, Members must report to the Integrity Commissioner the names of all donors and the value of their donation.
- iv. Where a Member sponsors and/or lends support to a charitable organization's event, this Code recognizes that all donations are subject to this Code and the Council Expense Policy.
- v. Donation cheques shall not be made out to a Member.

(b). Nothing included herein affects the entitlement of a Member to:

- i. use their Individual budget to run or support community events subject to the terms of the Council Expense Policy;
- ii. urge constituents, businesses and other groups to support community events and advance the needs of a charitable organization put on by others in Chatham-Kent;
- iii. play an advisory or membership role in any organization that holds.

Commentary: Personal integrity and sound business practices require that relationships with vendors, contractors, or others doing business with the Municipality, be such that no Member of Council is perceived as showing favoritism or bias toward the vendor, contractor or other. Each Member of Council is accountable to the public and should keep a list of all gifts received from individuals, firms or associations (with estimated values) in their offices for review by Integrity Commissioner, as he/she deems appropriate. A gift to a Member may be perceived as improper influence that may improperly induce, influence or create an incentive for a Member to make decisions on the basis of relationships rather than in the best interests of the Municipality's community events in Chatham-Kent.

## **7. Confidential Information**

7.1 No member shall disclose or release by any means to anyone any confidential information acquired by virtue of their office, in either oral or written form, except when required to do so by a Court of competent jurisdiction. This includes, for example, forwarding of emails, sending of instant messages, or communications via social media, whether on a municipally owned device, personal device or other.

7.2 No member shall use confidential information for personal or private gain, whether for themselves or relatives or any other person or corporation. This includes, for example, that no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of the Municipality's property, assets, or purchasing of goods or services.

7.3 The following are a few examples of the types of information that a member of Council must keep confidential:

- (a). items reviewed in an *in camera* (closed) meeting;
- (b). personal, contractual or employment related information of employees of the Municipality or local boards;
- (c). labour relations information of individual employees and trade unions of the Municipality or local boards;
- (d). confidential negotiation information of the Municipality or local boards;
- (e). information that infringes on the rights of others (e.g., sources of complaints where the identity of a Complainant is given in confidence);
- (f). price schedules in contract tender or Request For Proposal submissions if so specified;
- (g). economic development files where confidentiality is required; and
- (h). statistical data required by law not to be released (e.g., certain census or assessment data).

7.4 Members of Council should not access or attempt to gain access to confidential information in the custody of the Municipality unless it is necessary for the performance of their duties. Some information in the possession of staff (e.g. medical or tax records that identify individual citizens) cannot be disclosed to individual members of Council.

## **8. Use of Municipal Property, Services and Other Resources**

- 8.1 No member of Council shall use, or permit the use of Municipal property, land, facilities, equipment, computers, phones or other technological devices, supplies, services, staff or other resources (for example, Municipality-owned materials, websites, and member of Council expense budgets) for activities other than the business of the Municipality.
- 8.2 This shall not apply to incidental personal use that does not cause the Municipality or Council disrepute and that does not exceed a nominal expense to the Municipality (e.g. use of municipal cell phone for incidental personal phone calls).
- 8.3 No member shall utilize Municipal equipment, such as computers, phones or other technological devices for intentionally making, accessing, downloading, uploading or saving inappropriate material which includes, but is not limited to, (i) pornographic, violent or hate material, or (ii) statements which are derogatory, defamatory, harassing, fraudulent or threatening.
- 8.4 No member shall obtain personal financial gain from the use or sale of Municipality- developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the Municipality.

## **9. Election Campaign Work**

- 9.1 Members are required to follow the provisions of the *Municipal Elections Act, 1996*.



- 9.2 No Member shall use the facilities, equipment, supplies, services or other resources of the Municipality (including Councillor newsletters and websites linked through the Municipality's website) for any election campaign or campaign-related activities. This includes as outlined in the Use of Corporate Resource Policy.
- 9.3 No Member shall undertake campaign-related activities on Municipality property during regular working hours unless permitted by Municipal policy (e.g., all candidates meetings).
- 9.4 No Member shall use the services of employees or contractors for election-related purposes during hours in which those persons receive any compensation or payment from the Municipality.

## **10. Improper Use of Influence**

- 10.1 No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.
- 10.2 Examples of prohibited conduct are the use of a member's position as a member of Council or local board or committee to improperly influence the decision of another person to the private advantage of the member, or the member's parents, children or spouse, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.
- 10.3 For the purposes of this provision, "private advantage" does not include a matter that is of general or broad application or that concerns the remuneration or benefits of a member.

## **11. Business Relations**

- 11.1 No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the Municipality except in compliance with the terms of the *Municipal Conflict of Interest Act*.
- 11.2 In the course of their official duties as a member of Council, no member shall refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit for oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise.
- 11.3 If a Member becomes aware that an entity for which the Member has a material interest (or is a director or employee), may offer or provide goods, consulting or other services to Chatham-Kent the Member will seek advice from the Integrity Commissioner about the application of the *Municipal Conflict of Interest Act* and whether, in consideration of the circumstances, membership is in the best.

## **12. Conduct Regarding Current and Prospective Employment**

12.1 No member shall allow the prospect of their current or future employment by a person or entity to detrimentally affect the performance of their duties to the Municipality.

### **13. Conduct at Council and Committee Meetings**

13.1 During Council meetings, members shall show respect and conduct themselves with decorum and mutual respect at all times during presentations by staff, public and fellowmembers.

13.2 Decorum will include, showing respect for deputations and for fellow members and staff, showing courtesy, respect and not distracting from the business of Council during presentations and when other members have the floor to speak.

13.3 Members must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect.

13.4 Members may not make statements known to be false or make a statement with the intent to mislead Council or the public;

### **14. Traditional Media and Social Media Communications**

14.1 Members shall respect that the Mayor is the official spokesperson for Council and all positions of same for both traditional and social media communications, unless otherwise provided for (as per the stipulations of the Acting Chair by-law or other informal arrangement made from time to time).

14.2 Members will accurately communicate the decisions of Council even if they disagree with the decision, so that there is respect for and integrity in the decision-making processes of Council.

14.3 Members may state that they did not support or voted against a decision of Council but should refrain from making disparaging comments about other Members and the process whereby the decision was undertaken.

14.4 Aspects of this Code applying to communications with the traditional media and public shall also apply to communications using social media. Members shall express themselves on social media respectfully, in an open, transparent and publicly accountable manner and in accordance with the principles set out in the Code.

14.5 Members shall be mindful that social media use does not excuse them from their obligations under this Code, regardless of if a disclaimer is posted that views expressed therein are only personal opinions and not those of Chatham-Kent.

14.6 Members shall not use Chatham-Kent's property or intellectual property in social media posts that are unconnected to Municipal business.

- 14.7 Members shall not engage in campaign activities on social media accounts which use their official title, or from which they conduct official business of Chatham-Kent
- 14.8 Members shall consider their public obligations to engage in dialogue with those who may disagree with them; however, Members are not obligated to accept abuse, bullying, harassment, trolling, threatening behaviour or conduct that violates the law by anyone on social media (including fellow Members). When facing abuse on social media, Members should seek guidance from staff and the Integrity Commissioner, report to the social media platform, or, in extreme cases, advise appropriate legal authorities about, individuals who are engaging in any of the behaviour noted above. The Integrity Commissioner may be relied upon for advice in these instances prior to any such action being taken. Members must be careful not to block the public from having access to the social media accounts they use to perform their duties of office, simply because those users express criticism of the Member's Conduct or disagree with their stated positions.

Commentary: The content of any Member's communications, regardless of method of communication, shall be accurate, honest and respectful of other persons, including other Members, Staff and the public.

## **15. Conduct Respecting Staff**

- 15.1 Only Council as a whole has the authority to approve budget, policy, Committee processes and other such matters. Under the direction of the Chief Administrative Officer, staff serve Council as a whole and the combined interests of all members as evidenced through the decisions of Council.
- 15.2 Individual members shall not give direction to staff. Council shall give direction to staff, through the Chief Administrative Officer, in a meeting of Council (either *in camera* or in an open public meeting, as appropriate and as permitted by legislation) and through a vote of the majority members of Council.
- 15.3 When interacting with staff, members shall use generally accepted practices of respectful interaction.
- 15.4 Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council.
- 15.5 Members shall not maliciously or falsely injure the professional or ethical reputation of staff, or the prospects or practice of staff, whether in public or in private, and all members shall show respect for the professional capacities of staff.

- 15.6 Members shall not unduly influence staff members who have delegated authority from Council, or statutory authority under legislation, to make a decision or provide a service.
- 15.7 No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.
- 15.8 In practical terms, there are distinct and specialized roles carried out by Council as a whole and by individual members when performing their duties. The key requirements of these duties include dealing with constituents and the general public, participating as Committee members, and participating as Council representatives on agencies, boards, commissions and other bodies.
- 15.9 Members may choose to advocate for a particular political position and/or on behalf of their constituents. Members must remember that municipal employees have distinct and specialized roles. Some employees have duties and obligations that require them to make decisions independent of Council and free of influence from Council members. Some employees also have obligations to professional associations, which are separate from the municipality, and which govern the way in which these employees can respond to members and the public. Members must be respectful of these obligations and the professional obligations of employees.

## **16. Municipal Conflict Of Interest Act**

- 16.1 Members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act* as amended from time to time.

## **17. Discreditable Conduct**

- 17.1 All members of Council have a duty to treat members of the public, one another, and staff in a civilized way and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies, in addition to other federal and provincial laws.
- 17.2 Harassment or discrimination which occurs in the course of, or is related to, the performance of Official Duties by Members is subject to this Code. If an Employee, a member of the public or any individual brings forward a harassment or discrimination complaint against a Member, the complaint will be referred to the Integrity Commissioner and the complaint procedure under this Code will apply. Upon receipt of a complaint that relates to harassment or discrimination, if the Integrity Commissioner determines that a formal investigation is required, the Integrity Commissioner may forward the information subject of the complaint to Human Resources who will engage the

services of a qualified third-party investigator to conduct the HR investigation. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall utilize the investigator's findings to make a determination under the application of the Code and decide whether to conduct a further investigation on the ethical conduct of the Member subject of the complaint. Depending upon the circumstances, the Integrity Commissioner may recommend that appropriate interim measures be implemented while the investigation is in progress. Such interim measures may include physically and/or operationally separating the Complainant and the Respondent until the investigation has been completed.

## **18. Failure to Adhere to Council Policies and Procedures**

18.1 This *Code of Conduct* is designed and intended to work together with other policies and procedures adopted by Council and intended to apply to Council (e.g., Procedure Bylaw).

18.2 More generally, members of Council are required to observe the terms of all bylaws, policies and procedures established by Municipal Council that are intended to apply to members of Council. This provision does not prevent a member of Council from requesting that Council grant an exemption from a policy or procedure.

## **19. Reprisals and Obstruction**

19.1 Members of Council must respect the integrity of the *Code of Conduct* and investigations conducted under it. Any reprisal or threat of reprisal against a Complainant or anyone for providing relevant information to the Integrity Commissioner, Chief Legal Officer, Chief Human Resource Officer, Chief Administrative Officer or anyone else tasked with investigating a Municipal matter, including violations of this *Code of Conduct* or any other matter, is therefore prohibited. It is also a violation of the *Code of Conduct* to obstruct an investigation, for example, by the destruction of documents or the erasing of electronic communications.

19.2 A refusal to comply with a decision of Council in respect of a recommendation of the Integrity Commissioner is a violation of the Code of Conduct.

## **20. Acting On Advice Of The Integrity Commissioner**

20.1 Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner, and the information or facts have not changed in the interim.

## **21. Integrity Commissioner**

21.1 The Municipality of Chatham-Kent shall appoint an Integrity Commissioner who reports directly to Council and who is responsible for

performing the duties outlined in this *Code of Conduct* and the *Municipal Act, 2001*, in an independent manner. The Integrity Commissioner shall not be an employee of the Municipality and shall not report to any staff member including the Chief Administrative Officer.

21.2 The Chair of a Meeting and the Integrity Commissioner have concurrent jurisdiction to receive and review matters of Member decorum at Council and Committee meetings. The Integrity Commissioner may exercise her discretion to receive and investigate the comments or actions of a Member classifying the same as conduct captured by the Code.

## **22. Complaint Protocol**

22.1 An Individual having reasonable grounds to believe that a Member has breached this Code, may proceed with a complaint. Complaints must be submitted no more than one year after the alleged violation occurring. No action will be taken on a complaint received beyond these deadlines.

### 22.2 Informal Complaint Procedure

- (a). Individuals or organizations who have identified or witnessed behaviour or an activity by a member that they believe is in contravention of the Code of Conduct could address the prohibited behaviour or activity themselves as follows:
  - i. advise the member that their behaviour or activity appears to contravene the *Code of Conduct*.
  - ii. encourage the member to stop the prohibited behaviour or activity;
  - iii. keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information; and
  - iv. if desired, contact the Integrity Commissioner who may choose to mediate or assist the parties.
- (b). A Complainant is not required to undertake the informal complaint procedure prior to pursuing the formal complaint procedure.

22.3 Complaints alleging a violation of the Municipal Conflict of Interest Act shall not be pursued under the Informal Complaint Procedure.

### 22.4 Filing a Formal Complaint

- (a) A request for an investigation that a member has contravened the *Code of Conduct* shall be:
  - i. made in writing on a prescribed form (Attachment A) provided by the Municipal Clerk setting out reasonable and probable grounds for the allegation that a member has contravened the *Code of Conduct*;
  - ii. signed by an identifiable individual (or the authorized signing officer of an organization).

### 22.5 Investigation Process for a Formal Complaint

(a). Jurisdiction

- i. The Integrity Commissioner shall review the complaint and determine if the complaint appears, *prima facie*, to be a complaint within the jurisdiction of the Integrity Commissioner.
- ii. If the Integrity Commissioner determines that the complaint is not a matter within the jurisdiction of the Integrity Commissioner, the Integrity Commissioner shall advise the Complainant in writing. The Integrity Commissioner may, at her or his sole discretion, refer the matter to another agency or person who has jurisdiction (or who might have jurisdiction) over the matter.
- iii. If the Integrity Commissioner determines that the complaint is within the jurisdiction of the Integrity Commissioner, the Integrity Commissioner shall proceed to sub-step (ii) under this "Investigation Process for a Formal Complaint".

(b). Frivolous, vexatious, not made in good faith, *de minimus*, or if there are insufficient grounds for an investigation

- i. The Integrity Commissioner shall review the complaint and determine if the complaint is frivolous, vexatious, not made in good faith, *de minimus*, or if there are insufficient grounds for an investigation.
- ii. If the Integrity Commissioner determines that the complaint is frivolous, vexatious, not made in good faith, *de minimus*, or that there are insufficient grounds for an investigation, the Integrity Commissioner shall advise the Complainant and the Municipal Clerk in writing. The Municipal Clerk shall post the written decision of the Integrity Commissioner on the Municipal website within ten days of receiving the Decision.

(c). Refusal to Conduct Investigation

- i. The Integrity Commissioner has discretion as to whether to carry out an investigation. If the Integrity Commissioner is satisfied, after considering the information contained in the complaint, that a complaint:
  - a. is frivolous or vexatious,
  - b. is not made in good faith,
  - c. constitutes an abuse of process,
  - d. discloses no grounds or insufficient grounds for an investigation, or
  - e. does not warrant a full investigation,
- ii. the Integrity Commissioner shall not be required to conduct an investigation and may summarily dismiss the complaint. Where this becomes apparent during the course of an investigation, the Integrity

Commissioner shall terminate the inquiry and provide notice to the Complainant and, if necessary, to the Member.

(d). Opportunities for Resolution

- i. Following receipt and review of a formal complaint or at any time during the investigation where the Integrity Commissioner, in their discretion, believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the Complainant and the Member agree, efforts may be pursued to achieve an informal resolution.
- ii. If the Integrity Commissioner determines that the complaint is not frivolous, not vexatious, is made in good faith, is not *de minimus*, and that there is sufficient grounds for an investigation, the Integrity Commissioner shall proceed to sub-step (iii) under this "Investigation Process for a Formal Complaint".

(e) Investigation

- i. If the Integrity Commissioner has decided to commence an investigation, the Integrity Commissioner shall:
  - a. provide the Member with an outline of the complaint within ten (10) days with careful thoroughness of detail to allow the Member to understand the complaint against him or her, but the Integrity Commissioner shall not have any obligation to disclose:
    - the identity of the Complainant, or
    - the identity of any witnesses set out in the complaint or persons that are questioned/interviewed by the Integrity Commissioner, unless it is essential for the Member to adequately respond to the complaint, which determination shall be made in the Integrity Commissioner's sole and absolutely discretion; Request that the Respondent provide a written response to the allegation be provided to the Integrity Commissioner within ten (10) days.
  - b. give a copy of the response provided by the Member to the Complainant and invite any written comments within ten (10) days.
  - c. if necessary, after reviewing the submitted materials, the Integrity Commissioner may request further information from the Complainant or the Member, speak to anyone, access and examine any other documents or electronic materials, and may enter any Chatham-Kent work location relevant to the complaint for the purpose of investigation and potential resolution.
- ii. The Integrity Commissioner may extend the timelines for submission of any responses from either the Member or the Complainant as he or she deems it fair or necessary.
- iii. The Integrity Commissioner will complete and report on any investigation normally within ninety (90) days of having received the Complaint.



- iv. If the investigation process is going to take more than ninety days, the Integrity Commissioner shall provide an interim report to the Complainant, Member and the Clerk indicating when the investigation is anticipated to be completed.
- v. Notwithstanding anything else in these Procedures, if an investigation has not been completed by the Integrity Commissioner before Nomination Day, the Commissioner shall terminate the investigation on Nomination Day.
- vi. If an investigation is terminated pursuant to these procedures, the Integrity Commissioner shall not commence another investigation of the same matter unless, within six weeks after Voting Day, the Complainant or the Member who was the subject of the complaint requests, in writing, that the Commissioner commence the investigation.
- vii. At any time, the Complainant may abandon the request for an investigation and the Integrity Commissioner will cease their investigation.
- viii. If an investigation is being abandoned pursuant to these Procedures, the Integrity Commissioner shall notify, in writing, the Complainant, the Member and the Clerk.
- ix. The Integrity Commissioner shall be entitled to any documents in the possession of the Municipality, except where prohibited by law. Members and staff shall cooperate by providing any requested documents and otherwise shall cooperate with the investigation.
- x. The Integrity Commissioner shall be entitled to amend or end the investigative process when, in her or his sole discretion, it is necessary to do so for the purposes of achieving a just and fair result. If the Integrity Commissioner ends the investigation during this stage of the investigation process, the Integrity Commissioner shall provide a final investigation report as outlined in sub-step (iv) under this "Investigation Process for a Formal Complaint".
- xi. The Integrity Commissioner may, but is under no obligation, provide the Member with a draft of the proposed draft report on the complaint.
- xii. The Integrity Commissioner shall not issue a report finding a violation of the Code on the part of any Member unless the Member has had an opportunity, either in person or in writing, to comment to the Integrity Commissioner on any of the preliminary or proposed finding(s).
- xiii. The Integrity Commissioner may, but is under no obligation, to advise either the Member or the Complainant of any proposed sanction or recommendation the Integrity Commissioner may include in the report to Council.

(f) Investigation Reports and Recommendations

- i. The Integrity Commissioner shall provide a final investigation report in writing, with reasons, to the Clerk, the member, and the Complainant within 90 days of the Integrity Commissioner receiving the complaint. The investigation report shall include findings of fact based on the balance of probabilities and with consideration given to the credibility of all concerned persons and witnesses. The investigation report may contain a recommendation to Council.
- ii. The Clerk shall make the investigation report available to the public on the municipal website within ten days of receiving the decision. Within 30 days the Clerk shall also put the investigation report on a Council agenda.
- iii. The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of delay, interference, obstruction or retaliation encountered during an investigation, or as otherwise deemed necessary by the Integrity Commissioner.

(g) Confidentiality

- i. Names and facts identifying members, Complainants and witnesses will be made public through any reports or decisions issued by the Integrity Commissioner, which will then be posted to the municipal website and/or included in any public and open Council agenda package. However, the Integrity Commissioner shall have the authority to keep confidential any names or facts that would identify members, Complainants and/or witnesses where it is in the interest of a just and fair result to do so. Relevant criteria for determining whether the identity of members, Complainants and/or witnesses will include, but is not limited to, the nature of the complaint and the power imbalance between the parties (including for example municipal employees who can be subject to reprisals from members of Council). In such an instance, the Integrity Commissioner may use initials, code or other means of protecting the identity of Complainants and witnesses and may also black out any identifying information on relevant documents.

22.6 Council Decision

- (a) Within 60 days of receipt of a final investigation report from the Integrity Commissioner, the report shall be considered by Council in a regularly scheduled open and public meeting of Council. Council shall decide, and the Municipal Clerk shall record the vote of each member of Council, with respect to each recommendation made by the Integrity Commissioner.
- (b) Council may ask the Integrity Commissioner to appear before Council,

in an open and public meeting of Council, to answer questions or provide information to Council about the investigation or investigation report.

- (c) The Complainant can be present if they wish to self-identify and attend as a deputation. Pursuant to section 5(2.1) of the MCI, the member under investigation where there is consideration at a meeting of whether suspend the remuneration, may take part in the discussion of the matter, including making submissions to Council or the local board, and may attempt to influence the voting. However, the member is not permitted to vote on any question in respect of the matter.
- (d) No person shall be entitled to make a deputation to Council with respect to any investigation report or any matter related thereto.
- (e) Council is entitled to receive *in camera* advice as permitted under the *Municipal Act, 2001* from relevant staff.

### **23. Acting on Advice of Integrity Commissioner**

23.1 Members of Council shall be permitted to seek advice from the Integrity Commissioner with respect to interpretation of this *Code of Conduct*. Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter, as long as all the relevant facts and information known to the member were disclosed to the Integrity Commissioner.

### **24. Annual Reports**

24.1 The Integrity Commissioner shall provide a periodic report to Council which shall include:

- (a) the number of instances in which the Integrity Commissioner provided written advice to a member with respect to interpretation of this *Code of Conduct*,
- (b) complaints received but determined to be not within the jurisdiction of the Integrity Commissioner,
- (c) complaints deemed to be frivolous, vexatious, *de minimus*, not made in good faith, or where there were insufficient grounds to investigate,
- (d) complaints investigated and number of reports written, and
- (e) total costs of investigations annually, including all fees and disbursements by the Integrity Commissioner,

but shall not disclose information that could identify a person concerned.

## **25. Integrity Commissioner Vacancy**

- 25.1 Should the office of the Integrity Commissioner become vacant, the *Code of Conduct* shall remain in effect and all members shall abide by the provisions set out therein. Staff shall forthwith issue a Request for Proposal for the services of an Integrity Commissioner and make a recommendation to Council, in an open and public meeting of Council, for the appointment of a new Integrity Commissioner.
- 25.2 Should a formal complaint be filed while the office of the Integrity Commissioner is vacant, the Municipal Clerk shall refer the matter for handling to the Integrity Commissioner of a nearby neighbouring municipality.

## **26. No Retroactivity**

- 26.2 This *Code of Conduct* shall not apply retroactively to any alleged transgressions occurring prior to the date on which this *Code of Conduct* is approved by Council.

## **27 No Appeal**

- 27.1 Any decision of the Integrity Commissioner, Municipal Clerk, or any other official acting under the authority of this Code of Conduct, shall be final and without right of appeal to Council. The Complainant or Respondent may make an application to the Divisional Court for a judicial review of the decision of Council that accepts the findings and accepts or varies the recommendations of the Integrity Commissioner

Submit completed complaint and \$25.00 filing fee in a sealed envelope to: Judy Smith, Municipal Clerk, 315 King Street West, P.O. Box 640, Chatham ON N7M 5K8. 519.360.1998 Ext # 3200. email: [judys@chatham-kent.ca](mailto:judys@chatham-kent.ca)

**REQUESTER'S INFORMATION:**

Last Name:	First Name:
Street Address:	Municipality / City:
Postal Code:	Phone #:
E-mail Address:	

**DETAILS OF ALLEGED CONTRAVENTION OF COUNCIL CODE OF CONDUCT:**

*Facts constituting the alleged contravention of the Council Code of Conduct. As much as possible clearly indicate names, dates, time and any other information available.	
*Name(s) and contact information of any witnesses:	
*Please use additional paper and attach to this form if necessary.	
Signature:	Date: Year:                      Month:                      Day:

**FOR OFFICE USE ONLY:**

Date Received by: Year:                      Month: Day:	Complaint #:	Comments:
<p>Personal information contained on this form is collected under the authority of the <i>Municipal Freedom of Information and Protection of Privacy Act</i> and will be used for the purpose of responding to a complaint review.</p> <p>Names and facts of this process will be made public through reports and decisions issued by the Integrity Commissioner. As per section 19 (c) (v) of the Code of Conduct for Members of Council, the Integrity Commissioner has the authority to keep confidential any names or facts that would identify witnesses where it is in the interest of a just and fair result to do so.</p>		